

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

BRIAN MASCK,

Plaintiff,

File No. 2:13-cv-10226

v

Hon. Gershwin A. Drain

SPORTS ILLUSTRATED; NISSAN NORTH
AMERICA; GETTY IMAGES, INC.;
CHAMPIONS PRESS, L.L.C.;
DESMOND HOWARD; PHOTO FILE, INC.;
FATHEAD, L.L.C.; WAL-MART STORES, INC;
WAL-MART.COM USA, L.L.C and
AMAZON.COM, INC.,

Defendants.

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AFFIDAVIT OF LAURA FREYE-RUSS REGARDING DISCOVERY HISTORY

1. I am employed by Blaske and Blaske, P.L.C. and serve as the primary – usually exclusive – contact for scheduling, particularly discovery.
2. I did that in connection with this case.
3. Some of the impressions and representations made by other filings from the defense interests in this case are only partly accurate and therefore may leave misleading impressions which I hope, by the detail of this Affidavit, to clarify and correct.
4. On November 15, 2013 I generated letters to the defense attorneys in this matter requesting dates for the depositions of many individuals. (Copies of those letters are attached to our Motion To Compel Discovery.)
5. I hand delivered those letters to Attorneys Rummage, Huget, Bower and Hewlett while they were in our office for the deposition of our client, and I mailed letters to Attorneys Galligan and Ford.
6. I was engaged in an e-mail and telephone exchange about depositions at various points throughout the fall with Attorney Ambika Doran, who was working on behalf of Mr. Rummage.
7. I was directed to concentrate on getting all decision making individuals to their respective mediations (there were two in this case, with different mediators)

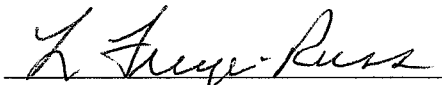
scheduled for December 17 and December 20 respectively, and I conveyed that priority interest to Ms. Doran in my e-mails and telephone conversations scheduling those mediations.

8. I understood that there was a consensus to schedule depositions, if necessary, following the mediations, rather than expend the resources of time and expense needed to take them if the case was settled.
9. In my exchanges with Ms. Doran it was very difficult for me to obtain information regarding locations for the depositions, which information, of course, was necessary for me to know to book court reporters and possibly travel, so she and I had multiple exchanges and divergent e-mail threads.
10. Mr. Turck was out of the office for the Thanksgiving holiday and Mr. Blaske was already committed on November 26th, the date offered for the "Fathead" deponent.
11. In an exchange on November 21, 2013, before Thanksgiving week, I informed Ms. Doran that Mr. Blaske was only available on November 25th. and noted that we would be better served to get in-person attendance at mediation which was scheduled for their defendants on December 20th.
12. In December 2013 in all cases our two lawyer office had four mediations scheduled, 24 depositions, in and out of state, over 10 hearings and a jury trial along with a great many other appointments with clients and others.
13. Though Ms. Doran offered some few dates for some (but not all) requested depositions in the first week in December, none of those dates were possible for us to accept as we were already tightly booked for both Mr. Blaske and Mr. Turck.

14. When I explained that problem to Ms. Doran, she never said nor implied that she or anybody would later take the position, as I understand they have now, that the depositions must be done before some Court-set date. Had she done so, we would have endeavored to either seek relief from this Court at that time or we would have made these depositions an even higher priority and would have used their necessity as a basis to attempt to move off our previously scheduled conflicts.
15. Moreover, at no time during and of these exchanges did Ms. Doran nor anybody else tell us they were taking the position that the focused and limited scope Interrogatories we had propounded in mid-November would not eventually be answered because of the same position which is now being taken. As with the depositions, had that been expressed or even implied, remedial and adjusting measures, like those noted above with the deposition scheduling, would have been undertaken.
16. Over the Thanksgiving holiday Mr. Blaske became extremely ill with an upper respiratory bronchitis that severely reduced his oxygen exchange, had his doctors recommending hospitalization, and which illness prevented him from returning to the office until December 10th and even then on only a limited basis.
17. Mr. Turck, therefore, became the only attorney available to handle the already scheduled mediations, hearings and depositions for the first part of December.
18. I had a great many conversations the first couple of weeks in December explaining and rescheduling as many calendar items as I possibly could to free up Mr. Turck and to manage Mr. Blaske's absence.

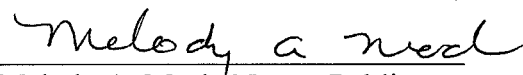
19. I am certain I had a conversation with or left a message for Ms. Doran regarding Mr. Blaske's illness and our unavailability.
20. I did not send any "available dates" to Ms. Doran for the month of December 2013 as we had no available dates to offer and I indicated such in my conversations.

I declare under the pains and penalties of perjury that the foregoing Affidavit is true to the best of my knowledge, information and belief.



Laura Freye-Russ

Subscribed and sworn to before me on February 5, 2014



Melody A. Mack, Notary Public
Washtenaw County, Michigan
My commission expires: August 3, 2018